# MINUTES OF MEETING OF THE INDUSTRIAL COMMISSION OF ARIZONA

Telephonic Meeting Held at 800 West Washington Street

Phoenix, Arizona 85007

Thursday, December 10, 2020 - 1:00 p.m.

Present: Dale L. Schultz

Chairman (Telephonic)

Scott P. LeMarr

Commissioner (Telephonic)

Steven J. Krenzel

Commissioner (Telephonic)

James Ashley

Director (Telephonic)

Gaetano Testini

Chief Legal Counsel (Telephonic)

Trevor Laky

Legislative Affairs Chief/Public Information Officer (Telephonic)

Jessie Atencio

ADOSH Director (Telephonic)

Anna Maria Stonerock Renee Pastor

ADOSH Assistant (Telephonic) Self Insurance (Telephonic)

Kara Dimas

Commission Secretary (Telephonic)

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance on the telephone, confirmed by roll call were Tyler White (White and White Contracting, LLC); and Makenzie Herbinko and Conrad Branchen (Lancaster Safety Consulting).

## Approval of Minutes of December 3, 2020 Regular Meeting Minutes.

Commissioner Krenzel moved to approve the Minutes of the December 3, 2020 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

## Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
  - 1. 2CC20/21-0061 Alba Construction \$1,000
  - 2. 2CRP20/21-0020 Tapia's Tuff Roofs \$5,000
  - 3. 2CC20/21-0034 Unique Stone Worx \$1,000
- b. Approval of Requests for Renewal of Self-Insurance Authority.
  - The Procter & Gamble Company

Mr. Testini removed Tapia's Tuff Roofs from the agenda.

Commissioner Krenzel moved to approve the items on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Reyes Roofing, LLC

Complaint

6221 N 35th Ave

Years in Business:

Empl. Covered by Inspection:

14

10

Phoenix, AZ 85017

5751 N Kolb Rd

Tucson, AZ 85750

Inspection No:

Site Location:

R3180 -1495509

Inspection Date:

10/02/2020

## REPEAT-SERIOUS - Citation 1 - Item 1 -

a) Building 25 and 26: Four employees were working on a roof 20' above the ground level without a fall protection system in place. 29 CFR 1926.501(b)(10)

Reyes Roofing, LLC was previously cited for a violation of this Occupational Safety and Health Standard or its equivalent 29 CFR 1926.501(b)(10) which was contained in ADOSH inspection number 1405071, citation number 1 item 1, issued on 10/11/2019 and was final order on 11/26/2019, with respect to the workplace located at 15221 N Clubgate Dr, Scottsdale, AZ 85254.

Div. Proposal - \$3,000.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$1,500.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, and reviewed the photographs.

Chairman Schultz and Mr. Atencio discussed that there is a tile cutter on the roof in photograph #6 while there was no evidence of masks or eye protection on the workers. Chairman Schultz found it interesting that while the company engaged a consultant to do training the owner must not have participated in the training if he did not know his employees needed to have fall protection on that job.

Commissioner LeMarr moved to approve the citation and proposed penalty as presented and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

White and White Contracting, LLC

Referral

19637 E Oriole Way

Years in Business:

7

Queen Creek, AZ 85142

Empl. Covered by Inspection:

Site Location:

21039 N Get Around Way

Maricopa, AZ 85138

Inspection No:

T3633 - 1491125

Inspection Date:

09/01/2020

#### SERIOUS – Citation 1 - Item 1 –

a) Manhole: Employees entered a manhole to cut open a pipeline which connected two lakes, and a confined space entry permit was not prepared. 29 CFR 1926.1205(a)

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

### SERIOUS – Citation 1 - Item 2 –

a) Manhole: An employee entered a manhole to cut open a pipeline which connected two lakes, and the confined space training provided to the employee and to other employees outside of the manhole did not establish proficiency in the duties required by the standard, and did not include training on the procedures specified in the employer's written confined space program. 29 CFR 1926.1207(c)

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

# SERIOUS - Citation 1 - Item 3 -

a) Manhole: An employee entered a manhole to cut open a pipeline which connected two lakes, a non-entry rescue was not planned as required, in that the entrant did not wear a harness and no tripod was installed at the entrance to the manhole. 29 CFR 1926.1211(c)

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$4,500.00

TOTAL FORMULA AMT. - \$4,500.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalties, and reviewed the photographs.

Chairman Schultz and Mr. Atencio discussed the meter readings before the explosion and the fire department's readings after the explosion.

Chairman Schultz checked if anyone on the phone would like to comment.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

## Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley recognized Renee Pastor for her civic involvement in the community being recently elected Vice Chair to the City of Surprise Health Benefit Trust Fund Board.

Chairman Schultz commented that Ms. Pastor will do an incredible job making sure the Trust stays actuarially sound. He thanked her for her commitment to the Industrial Commission and the community.

Mr. Laky highlighted one of the legislative items the Commission will propose this year. The proposed legislation will do two things: 1) Amend A.R.S. §23-409 to accurately reflect statutory changes made in the 53rd Legislature and correct contradicting statutes to reflect the Governor's sole authority to appoint members of the OSHA Review Board and 2) Amend A.R.S. §23-417 to allow

businesses to contest a citation they receive past the 15 day deadline if they can prove they never received the citation.

Chairman Schultz commented that it sounds like nice housekeeping updates.

Mr. Ashley noted the second change offers good flexibility and appropriate discretion to recognize when there has been a notable delivery problem.

Chairman Schultz stated the Commission values the input of the employers and helping promote safety throughout the state of Arizona and wants to make sure that our processes are very accommodating to make sure employers have an opportunity to respond and understand what we are asking them to do.

Ms. Dimas confirmed Commission meeting dates through February 2021.

## Public Comment.

There was no public comment.

Commissioner Krenzel moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion and the meeting was adjourned at 1:36 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

Ву

James Ashley, Director

ATTEST:

Kara Dimas, Commission Secretary